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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 May 1997, at 10 a.m.

Chairperson: Mr. ALSTON

later: Mr. CEAUSU

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7) (continued)

Initial report of the Libyan Arab Jamahiriya (E/1990/5/Add.26, E/C.12/CA/29 and E/C.12/Q/Libya.1)

1. At the invitation of the Chairperson, the Libyan delegation took places at the Committee table.

2. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) thanked the Committee for having postponed consideration of her country's report, which had enabled the delegation to prepare itself for a serious dialogue with Committee members.

3. The CHAIRPERSON recapitulated the Committee's methods of work and stressed the need for constructive dialogue. He invited the Libyan delegation to respond to paragraphs 1 to 11 of the list of issues (E/C.12/Q/Libya.1).

4. Mr. AL BADRI (Libyan Arab Jamahiriya), replying to questions in paragraph 1 on the ethnic composition of the Libyan population, said that the Libyan nation was homogeneous and there were no minorities in the country. As to the percentage of the population working in various sectors, precise figures would be provided to the Committee at a later date.

5. With reference to paragraph 2 on the hierarchical structure of the system of government, he explained that power rested in the hands of the people. There was no king or president and no form of parliamentary representation in Libya. There were people's congresses at which men and women over the age of 18 met and adopted decisions. The congresses monitored the implementation of their decisions by the people's committees, whose members came from all strata of society and were freely chosen by the masses. The term of office, which was renewable, was five years.

6. In response to paragraph 3 on the status and role of the revolutionary committees, he said that the committees had no link to power, since authority was vested in the people. Their role was to defend the revolution and raise the people's consciousness. It was an open and self-managed movement, which saw to it that the people's committees carried out the decisions adopted by the congresses.

7. With regard to the question in paragraph 4 about possible contradictions between decisions taken by the large number of committees and congresses, he assured the Committee that any such risk had been removed by the clarifications set out in Act No. 1 of 1996. There was no risk of injustice because the Great Green Document on Human Rights in the Age of the Masses expressly permitted all freedoms insofar as they were not harmful to society. Persons sentenced to death could lodge an appeal or apply for mercy.

8. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said in response to questions in paragraph 5 on the independence of the judiciary that the only way in which judges could be dismissed was by decision of a disciplinary tribunal. The independence of the judiciary was set forth in Act No. 20 of 1991. Judges were appointed by the Supreme Council of the Magistrature and their retirement after a number of years in office was in no way linked to any order by the executive branch. The holding of concurrent offices was not allowed.

9. In response to the question in paragraph 6 on the status of the Covenant in domestic law, she said that the Great Green Document on Human Rights contained all the articles of the Covenant. In addition, all the human rights conventions were incorporated into Act No. 20 of 1991, article 35 of which stipulated that no instrument contrary to those provisions could be enacted.

10. Regarding paragraph 7 on religious freedom, the Penal Code prohibited any act liable to prejudice publicly practised religions, places of worship or anything held sacred by any category of the population. Any persons believing themselves to be victims of such an act could file a complaint and claim compensation. In respect of marriage, the Civil Code stipulated that when one of the spouses was a Libyan, only Libyan law should apply.

11. Regarding the possibility, referred to in paragraph 8, of invoking the provisions of the Covenant before the courts, specific replies would be conveyed to the Committee at a later date.

12. With regard to the issue raised in paragraph 9 about information and publicity, use was made of the many national and international information media in Libya to make the public aware of its rights.

13. With reference to paragraph 10 on the possible involvement of non-governmental organizations (NGOs) in the preparation of the report, she mentioned the Libyan Arab Human Rights Organization.

14. In response to the question in paragraph 11 about the Optional Protocol to the Covenant, she said that the document was currently being studied.

15. Mrs. JIMENEZ BUTRAGUEÑO requested further information about the judiciary. How were judges trained and was there any association of judges?

16. Mr. SA'DI doubted that the country's numerous congresses, committees and assemblies were in a position to ensure the effective enjoyment by all Libyans of the right set forth in article 1 of the Covenant, namely, the right to self-determination. Could the Great Green Document on Human Rights, equal in importance to the Constitution, be amended to keep abreast of the trends emerging in Libya as well as throughout the world?

17. Mr. WIMER understood that the practice of religions was permitted subject to a system of selection. Which religions were publicly permitted in Libya? Through what authority and by what means could the Libyan people have a say, through their representatives, in determining whether a particular religion was or was not permitted?

18. Mr. TEXIER regretted the delay in considering the report of the Libyan Arab Jamahiriya and the absence of any written replies. Far from providing concrete information on the de facto situation in regard to economic, social and cultural rights, the report confined itself to general remarks on the judicial system. Taking the question in paragraph 9 as an example, he said that the Committee would have liked to know specifically whether the Government had disseminated the Covenant or made any reference to it in the training of magistrates, in the universities, in the media and so on.

19. Mr. THAPALIA drew attention to paragraphs 33 and 46 of the report, according to which all the provisions of the international human rights instruments were incorporated into Libyan legislation, which recognized the right of every citizen to seek legal remedy from the courts in the event of a violation of his or her rights recognized in that legislation or in the Covenant. To what extent could ordinary citizens successfully challenge a decision by the authorities? Was there any judicial decision or precedent regarding the application of the provisions of the Covenant? Lastly, was the Supreme Court competent to exercise judicial control and did it possess any special powers?

20. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said that her delegation had already replied to those questions; the focus should be placed instead on economic, social and cultural rights. The Libyan delegation was open to dialogue and would reply to all the questions, either on the spot or in due course.

21. Mr. AL BADRI (Libyan Arab Jamahiriya), replying to Mrs. Jimenez Butragueño, said that the judiciary was free and independent and that the judges were bound exclusively by the Shariah and legislation passed by the General People's Congress. There was a Supreme Council of the Magistrature under the authority of the General People's Congress, which appointed judges in accordance with international criteria. Judges were trained in recognized academies and had the necessary experience to carry out their duties, which were the same as those in other Arab or European countries. The duty of the judiciary was to defend the interests of citizens.

22. Replying to Mr. Sa'di, he said that the people's congresses, committees and assemblies had performed their duties extremely successfully. The Great Green Document served as a guide for society. Unlike other books on politics, it was not the work of a single author, but had emanated from the people's congresses. The Green Document had inspired several human rights instruments and was the reference work for all Libyans wanting to exercise their rights. It comprised three volumes (political, economic and social), which followed the spirit both of the Covenant and of the ideals and aspirations of the international community. The Green Document guaranteed a decent standard of living to all citizens.

23. Mr. PILLAY, having observed that Mr. Sa'di's question had been very precise, asked whether the Green Document could be modified in any circumstances.

24. Mr. AL BADRI (Libyan Arab Jamahiriya) replied that the Green Document could be modified only at the request of the Libyan Arab people, since it emanated from the people. As for the judges and magistrates, they were appointed by the Supreme Council of the Magistrature under the authority of the General People's Congress. Regarding measures implemented by the Libyan authorities to make the Covenant known, he remarked that Libyan society was governed by Islamic law, which took all elements of economic, social and cultural rights into account, and that the Government sought to apply the provisions of that law.

25. The CHAIRPERSON said that, if he understood correctly, no measures had been taken by the Libyan Arab Jamahiriya to make the rights enshrined by the Covenant known, since its provisions were considered to be covered by the law of Islam.

26. Mr. AHMED wished to know whether there were any other local NGOs in Libya apart from the aforementioned Libyan Arab Human Rights Organization and he wondered why that organization had participated in the drafting of the Libyan Arab Jamahiriya's country report. Had any other local human rights organizations been invited to contribute to the report?

27. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) replied that there was currently only one NGO in the Libyan Arab Jamahiriya dealing with human rights. There had been more in the past, but although they continued to visit the country, they were no longer based there. There were of course other NGOs in the Libyan Arab Jamahiriya, but they were involved in other areas. The Libyan Arab Human Rights Organization had been invited to communicate to the Government any information it deemed useful for inclusion in the report.

28. Regarding the role of the mass media in disseminating information concerning the rights enshrined in the Covenant, she explained that the media were used to inform the public about all the instruments the Libyan Arab Jamahiriya had ratified, and to present the main lines of such instruments in simplified form through televised debates and radio programmes.

29. Mr. PILLAY asked the delegation whether Libyan citizens could request compensation before the courts in case of violation of provisions in national legislation concerning economic, social and cultural rights or rights enshrined by the Covenant, and, if so, whether any such cases had already occurred.

30. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said that her delegation was not able to reply to that question, but assured the Committee that a response would be provided in due course.

31. Mr. WIMER asked on the basis of what criteria a religion obtained official recognition.

32. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) replied that Islam was the official religion in the Libyan Arab Jamahiriya and that no Libyan citizen had any other religion. Christianity and Judaism were, however, also recognized, so that foreign workers could practise their religion freely. She had never heard of followers of any other religions.

33. The CHAIRPERSON invited the delegation to reply to the questions in paragraphs 12 to 16 of the list of issues.

34. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya), referring to the question concerning compensation for foreign workers who had been "arbitrarily" expelled from Libya, explained that the persons concerned were workers without residence permits who had entered the Libyan Arab Jamahiriya illegally, often in order to evade prosecution in their own countries, and that such deportations were therefore not arbitrary. She added that owing to the large numbers involved the influx of foreign workers had resulted in the appearance of phenomena hitherto unknown in the country, such as the black market, begging and problems of alcoholism, all of which were detrimental to the Libyan community's values. With regard to compensation, those workers, who were unqualified and on daily wages, were given only a free return trip to their home country. Information on paragraph 13 was not available, but would be submitted to the Committee in due course.

35. Referring to article 3 on equality between men and women, and more particularly the question in paragraph 14, she said that women, just like men, were perfectly free to testify in court, whether they were guilty or not, and that the Penal Code and corresponding legislation accorded the same treatment to all citizens, regardless of gender. Inheritance issues were governed by the Koran, which took precedence over all other legislation. According to Islamic law, a man received approximately twice the share of inheritance a woman received. Before the Shariah was applied, women used to have no inheritance rights at all, since they themselves were considered part of that inheritance.

36. With reference to paragraph 15, she said that since the revolution of 1 September 1969, which had significantly improved the situation of Arab women, equal treatment had been recognized by law, which did not discriminate between citizens on grounds of sex, in either the economic, social or political domains. As for the need for the husband's permission to engage in certain activities, that was governed by the relations of understanding and equality which should be shared by spouses in building a family. Women did not engage in certain activities only because some work was better suited to men than women (and vice versa). Changing roles was contrary to nature. Equality between men and women was also respected in regard to salaries and to professional activities. Insofar as they were able, women could occupy high-level positions on the same terms as men. They could also freely select the training and occupation they desired.

37. Mr. AL BADRI (Libyan Arab Jamahiriya), referring to paragraph 16, said that thanks to the attention accorded to women's education since the revolution of 1 September 1969, significant progress had been accomplished each year in all areas. The number of female students at university currently exceeded that of male students (88,000 compared to 72,000), and 375,000 women worked in different sectors.

38. Mr. Ceausu (Romania) took the Chair.

39. The CHAIRPERSON thanked the delegation for its replies to the questions in paragraphs 12 to 16 of the list of issues and invited members' comments and further questions.

40. Mr. SA'DI asked whether the deportation of foreign workers was decided by a court and, if so, whether the workers had a remedy. He also wished to know what the position was in regard to the procedure for the Libyan Arab Jamahiriya's accession to the Convention on the Elimination of All Forms of Discrimination against Women and what kind of reservations had been entered by Libya.

41. Mr. ADEKUOYE said that he would like information about the position of women who decided to bequeath their property to their spouse. Did the Shariah or other provisions apply? He also wished to know whether there were women in Congress and, if so, in what proportion. Also, how many women were there in the civil service?

42. Mrs. JIMENEZ BUTRAGUEÑO said that she did not question the teachings of the Koran which were followed by the State party but still wondered about equality between men and women in the Libyan Arab Jamahiriya in practice, particularly in regard to salaries. She was also surprised to find that there were more men than women in Libya whereas in most other countries the figures were the reverse; she wondered what the reasons for that phenomenon were. She noted further that school attendance rates had increased - a positive element, in her view - and wondered if that was because more account was taken of sex equality from childhood on. She would like to have some information in that regard.

43. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said that, so far as the question of whether women in the Libyan Arab Jamahiriya enjoyed equality in the matter of inheritance was concerned, under Islamic law the man's share of the property had to be twice that of the woman, because account was taken of the fact that men had to fulfil certain obligations not imposed on women (for instance, looking after elderly or sick parents or a divorced woman with a family to support).

44. As for the deportation of foreign workers, those concerned were illegal workers who had entered Libya clandestinely. They had been assembled in camps on the basis of nationality and repatriated by air to the capitals of their real or presumed countries. Some of them had not had any identity papers to prove their nationality. They had had to be questioned individually about their nationality, origin, family and so on. Some of the clandestine immigrants, who had not had any work, had turned to begging. Libya, which was suffering the consequences of the sanctions imposed on it, had not wanted to exacerbate the situation on its territory, which was why it had been decided to deport the clandestine immigrants.

45. Mr. PILLAY said that Libyan law should be compatible with the provisions of the Covenant. Yet that did not seem to be the case in the matter of succession, since men and women were not treated equally.

46. Mr. RIEDEL said that, in his view, it was not enough to say, in regard to the obligation incumbent on States parties under article 3 of the Covenant,

that Islamic law laid down a particular provision. It was necessary to explain what the State did to comply with its international obligations.

47. The CHAIRPERSON, speaking for the members of the Committee, said that their questions had not been answered satisfactorily. In particular, the answer concerning clandestine immigrants gave the impression that they were behind many of the problems Libya was experiencing. He invited the delegation to indicate the questions to which it could not give an immediate answer.

48. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said that the presence of foreign workers was not in itself the cause of the problems being experienced in Libyan society. All societies had their difficulties but no State could permit the entry of thousands of people who did not have either papers in order or a valid contract of employment. Furthermore, Libya had considerable natural resources and a free educational and health-care system. Also, basic foodstuffs were subsidized, all of which attracted many would-be immigrants. All those who entered the country legally were accepted quite normally. Libya had the right, however, to send the others back to their countries.

49. As for equality between men and women in inheritance matters, Islamic law took precedence over any other law, convention or international instrument. Although the Libyan Arab Jamahiriya had acceded to some instruments such as the Covenant, it could not, as an Islamic State, place them above Islamic law.

50. Questions to which an immediate reply could not be given would be answered later. Due note had been taken of those questions.

51. Mr. AL BADRI (Libyan Arab Jamahiriya) said that a written answer to the questions in paragraph 17 would be given later.

52. With regard to the measures taken to mitigate the effects of the application of the Security Council resolution, as referred to in paragraph 18, the Libyan Arab Jamahiriya had purchased and chartered a number of vessels to carry Libyan citizens to Malta, where they could fly to other destinations. Land transport companies had also been set up to take travellers to Egypt or Tunisia, where they could also catch flights to other destinations. The Libyan Arab Jamahiriya endeavoured to stabilize the prices of basic foodstuffs by subsidizing them. It was trying to provide the population and sick people with the medicines and medical equipment they needed. It was trying to procure the parts necessary for the development of the national economy and to keep the country on the path to lasting development, despite the negative effects of sanctions.

53. With regard to the question in paragraph 20, minimum wages were laid down for workers by order of the competent authority, and for civil servants in accordance with the provisions of Act No. 15 of 1981, based on grade. The working day could be not more than six consecutive hours in the day or eight hours divided into two periods. Paid leave ranged from 18 to 25 days under Libyan law, rising to 30 days in the civil service under Act No. 55 of 1976.

54. With regard to the question in paragraph 21, labour inspection was governed in particular by Act No. 58 of 1970 and Act No. 120 on the reorganization of employment. The general administration of the labour force comprised 10 sections. The inspectors submitted a monthly report to the inspector general with a copy to the director of the section. Every three months, the inspector general submitted a general report on the work of the sections to the secretary of the general administration of the labour force. He could send out inspectors to inspect workplaces or other premises.

55. Health and safety at work were governed in particular by the 1970 Labour Act, articles 4 and 99 to 106, Act No. 93 of 1976, and Ministerial Decrees Nos. 38 and 8 of 1974.

56. Non-nationals who were legally resident in Libya had the right to work there on condition that they had a valid contract of employment. Everything was done to facilitate the lives and work of those employed on the hydroelectric project referred to in paragraph 23, as conditions in that desert region were very trying.

57. Mr. AL BADRI (Libyan Arab Jamahiriya), replying to the questions in paragraphs 24, 26 and 27 of the list of issues, said that article 6 of the Great Green Document on Human Rights in the Age of the Masses stated that any Libyan citizen was free to establish associations and trade unions in order to defend his professional interests. Article 1 of Act No. 5 of 1991, on the implementation of the principles of the Green Document, provided that existing legislation should be amended accordingly and that any new legislation must comply with the principles of the Green Document. Article 9 of Act No. 20 of 1991 provided that all citizens were free to establish and join associations, trade unions and charitable societies. Article 10 of the same Act laid down that every citizen was free to choose the work best suited to him, provided that he exploited no one and harmed no one. He also referred to the Trade Unions Act No. 107 (E/1990/5/Add.26, para. 51) and concluded that national legislation was completely compatible with the Covenant. He said that a written reply to the question contained in paragraph 25 of the list of issues would be forthcoming at a later date.

58. In reply to the questions contained in paragraphs 28 and 29 of the list, he said that there were no strikes in Libya because there was no reason to strike. The laws were adopted by people's congresses composed of all citizens and were executed by people's committees. Companies were managed by the workers and there were no strikes. The legislation in force did not grant the right to strike, but neither did it prohibit it. In reply to the question in paragraph 30 of the list, he said that the best guarantee against arbitrary dismissal was the availability of a legal remedy. In that way, workers had been able to return to former jobs and receive compensation.

59. The CHAIRPERSON took note of the delegation's promise to forward written replies to the questions on the implementation of articles 6, 7 and 8 of the Covenant.

60. Mr. GRISSA asked the delegation what the point was of having trade unions or having the freedom to establish trade unions when the right of

association was denied both in the legislation and in practice. How could trade unions exist when the workers were regarded not as employees but as partners?

61. Mrs. BONOAN-DANDAN said that the sections of the report concerning articles 6, 7 and 8 of the Covenant were very far from satisfactory, since the replies had been lumped together and were general in nature, while the information given was very brief. Similarly, the replies to the list of issues were not sufficient to give an idea of the real situation. It was impossible to know whether the Government guaranteed the necessary protection to its citizens and non-nationals.

62. With reference to women and their right to work, she asked whether there were professions in which women or men predominated. Were there social barriers or laws which prevented women from occupying certain posts? Could women travel or leave their homes alone? Did they owe obedience to their husbands? Did the Government take steps to ensure equal opportunities in professions which were not traditionally practised by women? Noting that Libya had ratified the ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, she asked whether women could appeal in the event of wage discrimination. Were there obstacles to the application of the principle of equality of remuneration? Had the Government taken legislative and administrative steps to guarantee special protection for migrant female workers?

63. Mr. TEXIER agreed with the previous speaker's comments on the inadequacies of the report and the replies to written questions, and hoped that the Government of Libya would send the Committee additional information on the implementation of articles 6 to 9 of the Covenant. With reference to article 6 of the Covenant, he asked whether there was any unemployment. If so, what was its rate and how was it developing? Was the State taking steps to reduce it?

64. Referring to article 7 of the Covenant, he would like confirmation that the amount of the minimum wage was fair and that it was cost-of-living indexed. With regard to collective bargaining and the right to establish trade unions, he confessed that he was concerned about the information contained in the secretariat's note on the Libyan Arab Jamahiriya (E/C.12/CA/29), which exposed the shortcomings of the legislation.

65. Mr. THAPALIA asked the delegation to give details on the existence of the right to strike and the number of hours and days lost over the past five years on account of collective bargaining or strikes.

66. Mr. AL BADRI (Libyan Arab Jamahiriya) said that since the revolution of 1 September 1969 all Libyan citizens were free, in the same way as the people's congresses and committees, which had permitted the realization of many of the rights of which the country's citizens had been deprived under the former regime. The trade unions were free and all their members were free to make their opinions known without outside interference. As long as all citizens took part in the people's congresses and committees, there was no reason to strike.

67. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) said that in replying to the question in paragraph 15 of the list of issues her delegation had quoted a number of laws providing for equality between men and women and guaranteeing the freedom of the individual without distinction of sex. Women had gained the right to travel alone and to live abroad. The previous month, the General People's Congress had adopted a document on the rights of women in the society of the Jamahiriya, which stated that women had the same rights as men. Only their duties were different, because they were biologically different from men. Women had the right to exercise their authority through the people's congresses and committees without being represented by anyone; they could hold posts of responsibility in keeping with their qualifications and capabilities; they could move about freely and live where they wished without restrictions; they had the right to education.

68. Mrs. BONOAN-DANDAN asked whether female victims of discrimination could file a remedy with the courts. She also wished to know what difficulties the Government experienced in implementing legislation on equality between men and women.

69. Mrs. EL HAJJAJI (Libyan Arab Jamahiriya) replied that women had the right to go to court but that they could also be represented by a relative. She said that considerable progress had been achieved, and that women could now enjoy their rights and their independence.

70. Mr. AL BADRI (Libyan Arab Jamahiriya) said that under existing legislation women had the right to engage in the same activities as men, particularly in the economic and social domains, without restrictions, and that women's rights were fully protected by law.

71. Mr. TEXIER considered that the replies to the questions he had asked, particularly on the right to strike, were not satisfactory.

72. Mr. ADEKUOYE wished to know how many remedies had been filed with the courts by female victims of discrimination. He asked the delegation to clarify the information contained in the secretariat's note (E/C.12/CA/29) to the effect that despite Libya's ratification of the ILO Abolition of Forced Labour Convention, that practice allegedly continued.

The meeting rose at 1 p.m.